

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT**

JOSIAH COLON, *et al.*,

*Plaintiffs-Appellee,*

*v.*

BUREAU OF ALCOHOL, TOBACCO,  
FIREARMS, AND EXPLOSIVES, *et al.*,

*Defendants-Appellants.*

No. 24-10897

**UNOPPOSED MOTION OF THE UNITED STATES FOR A 14-DAY  
EXTENSION OF TIME TO FILE OPENING BRIEF**

Pursuant to Federal Rule of Appellate Procedure 27 and 11th Cir. Rule 31-2, the government respectfully moves the Court for a 14-day extension of time, to and including May 20, 2024, to file its opening brief in this case. Plaintiffs consent to the extension. In support of this motion, the government states the following:

1. This appeal concerns a rule issued by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) addressing firearms equipped with stabilizing braces. *See* Factoring Criteria for Firearms with Attached “Stabilizing Braces,” 88 Fed. Reg. 6478, 6525 (Jan. 31, 2023). Plaintiffs present administrative and constitutional challenges to the rule. The district court issued a preliminary injunction to plaintiffs.
2. On April 10, 2024, this Court issued an initial briefing schedule, which sets May 6, 2024, as the deadline for the government’s opening brief. *See* Dkt. 9.

3. The requested extension is necessary to allow the government adequate time to prepare its opening brief. The government attorneys on this matter are responsible for several other appellate matters with upcoming deadlines that conflict with the current schedule. These matters include a response-and-reply brief due April 22, 2024, in a consolidated appeal from five challenges to the same agency rule, *see Second Amendment Foundation v. ATF*, No. 23-11157 (5th Cir.), and a response brief due April 24, 2024, in another challenge to the rule, *see Watterson v. ATF*, No. 23-40556 (5th Cir.), as well as other matters in the same timeframe, *see, e.g., Garland v. VanDerStok*, No. 23-852 (S. Ct.) (reply in support of petition for a writ of certiorari due March 27); *Paxton v. Dettelbach*, No. 23-10802 (5th Cir.) (oral argument scheduled May 1).

3. In light of these other litigation matters, the government respectfully requests a 14-day extension of time, to and including May 20, 2024, to prepare an opening brief. A 14-day extension will not appreciably delay the resolution of the case, and counsel will exercise diligence in preparing the brief in the time requested.

4. Plaintiffs' counsel consents to this extension.

## CONCLUSION

For the foregoing reasons, we respectfully ask that the Court extend the filing date for the government's response brief by 14 days, to and including May 20, 2024.

Respectfully submitted,

ABBY C. WRIGHT  
SEAN R. JANDA

*/s/ Ben Lewis*

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BEN LEWIS

*Attorneys*

*Civil Division, Appellate Staff*

*U.S. Department of Justice*

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APRIL 2024

### **CERTIFICATE OF COMPLIANCE**

Pursuant to Federal Rule of Appellate Procedure 32(g)(1), I hereby certify that this motion complies with Federal Rule of Appellate Procedure 27(d)(1)(E) because it was prepared with Garamond 14-point, a proportionally spaced font with serifs, and the motion complies with Federal Rule of Appellate Procedure 27(d)(2) because it contains 383 words, according to the word count of Microsoft Word.

/s/ Ben Lewis

Ben Lewis

### **CERTIFICATE OF SERVICE**

I hereby certify that on April 17, 2024, I electronically filed the foregoing with the Clerk of the Court by using the appellate CM/ECF system. Participants in the case are registered CM/ECF users, and service will be accomplished by the appellate CM/ECF system.

/s/ Ben Lewis

Ben Lewis

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DEFENDANTS-APPELLANTS'  
CERTIFICATE OF INTERESTED PARTIES

Pursuant to Eleventh Circuit Rule 26.1-1, counsel for defendants-appellants certifies that, to the best of his knowledge, the following constitutes a complete list of trial judges, attorneys, persons, associations of person, firms, partnerships, or corporations that have an interest in the outcome of this particular case or appeal:

2nd Amendment Armory, *Plaintiff-Appellee*

Bowen, Brigham J., *Attorney for Defendants-Appellants*

Boynton, Brian M., *Attorney for Defendants-Appellants*

Colon, Josiah, *Plaintiff-Appellee*

Dettelbach, Steven M., Director, Bureau of Alcohol, Tobacco, Firearms, and

Explosives, *Defendant-Appellant*

Drezner, Michael, *Attorney for Defendants-Appellants*

Garland, Merrick B., United States Attorney General, *Defendant-Appellant*

Janda, Sean R., *Attorney for Defendants-Appellants*

Kling, Brandon, *Plaintiff-Appellee*

Lewis, Benjamin R., *Attorney for Defendants-Appellants*

Larosiere, Matthew, *Attorney for Plaintiffs-Appellees*

Lowenstein, Jody D., *Attorney for Defendants-Appellants*

Lowry, Faith E., *Attorney for Defendants-Appellants*

Martin, William, *Plaintiff-Appellee*

Mele, Eric, *Plaintiff-Appellee*

Pitz, Taylor, *Attorney for Defendants-Appellants*

Scriven, Mary S., *District Judge for the Middle District of Florida*

Wright, Abby C., *Attorney for Defendants-Appellants*

Zachary Z. Zermay, *Attorney for Plaintiffs-Appellees*

Respectfully submitted,

ABBY C. WRIGHT  
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